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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,279	03/26/2004	Alexander Sloot	00995-P0229B	2153
24126	7590	09/30/2004	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			EGAN, BRIAN P	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	

1772

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

10/811,279

## Applicant(s)

SLOOT, ALEXANDER

## Examiner

Brian P. Egan

## Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stahl (#5,902,667) in view of Slood (#6,178,680) and Amburgey (#5,974,997).

Stahl teaches a system for retaining and displaying a piece of material, the system comprising: an intermediate fixation system (Fig. 5, #15); a lower layer having an outer periphery, an upper surface and a lower surface, the lower layer being sized such that the outer periphery thereof extends beyond the outer periphery of the piece of material (Fig. 5, #18); and adhesive layers applied to the lower surfaces of the intermediate fixation system and the lower layer (Fig. 5, #s 16 and 20, respectively). Stahl's broad disclosure of adhesive layers is inclusive of pressure sensitive adhesive layers. Stahl further teaches the use of a release liner on the lowermost adhesive layer (Col. 5, lines 44-61).

Stahl further teaches that the intermediate and lower layers are thermoplastic layers (Col. 4, lines 1-8), but fail to explicitly teach that the layers may be formed of vinyl. Stahl also fails to teach a piece of material having an upper surface, a lower surface, and an outer periphery attached to the top surface of the intermediate fixation system. Finally, Stahl fails to teach an upper layer having an outer periphery sized such that the outer periphery of the upper layer extends beyond the outer periphery of the piece of material, and is sealed to the upper surface of

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the lower layer, the upper layer having an opening passing therethrough which is sized such that a portion of the upper layer surrounding the opening therein overlies and is sealed to the outer periphery of the piece of material on its upper surface.

First, it is notoriously well known in the appliqué art that multilayered substrates may be formed from a vinyl material and that a piece of fabric material may be placed on top of an intermediate fixation system as evidenced by Sloom (Col. 3, lines 45-65; Col. 5, lines 49-65; Figs. 18-20). Sloom further teaches that the adhesive used to apply the substrate to the desired end product is a pressure sensitive adhesive (Col. 2, lines 40-55). Sloom teaches the use of a fabric/vinyl combination for the purpose of providing an aesthetically pleasing display for apparel such as T-shirts, sweaters, hats, shorts, accessories, water proof materials, and the like (Col. 1, lines 5-20). It would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have combined the teachings of Stahl and Sloom since each of the aforementioned references are analogous insofar as being directed to multilayered appliques.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have modified Stahl by selecting vinyl as the preferred material for the intermediate and bottom layers and to apply a fabric material to the upper surface of the intermediate vinyl layer as taught by Sloom in order to provide an aesthetically pleasing display for apparel such as T-shirts, sweaters, hats, shorts, accessories, water proof materials, and the like.

With regards to the use of an upper layer, it is notoriously well known in the art to provide appliques with an upper layer having an outer periphery sized such that the outer periphery of the upper layer extends beyond the outer periphery of the piece of material, and is

sealed to the upper surface of the lower layer, the upper layer having an opening passing therethrough which is sized such that a portion of the upper layer surrounding the opening therein overlies and is sealed to the outer periphery of the piece of material on its upper surface as evidenced by Amburgey (see Abstract; Col. 4, lines 12-30; Fig.2). Amburgey teaches the use of an upper layer for the purpose of providing an element that aids in securing an upper layer of material to a base layer of material and to provide an aesthetically pleasing frame about the decorative material (see Abstract). It would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have combined the teachings of Stahl and Amburgey since each of the aforementioned references are analogous insofar as being directed at multilayered decorative appliques.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have modified Stahl to include an upper layer as taught by Amburgey in order to provide an element that aids in securing an upper layer of material to a base layer of material and to provide an aesthetically pleasing frame about the decorative material.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Egan whose telephone number is 571-272-1491. The examiner can normally be reached on M-F, 8:30-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*B. P. E.*  
BPE 9/29/04

*[Signature]*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
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